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GOVERNOR'S COUNCIL ON AFFIRMATIVE ACTION REPORT

June 29, 1984

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REPORT SUMMARY

The state of Minnesota prides itself on being a model employer. In order to have an effective Affirmative Action program, there needs to be repeated and clear messages and behaviors that support Affirmative Action as a vital part of the state's practices as an employer. Agency heads, managers, and supervisors should be trained and expected to model behaviors that will make Affirmative Action an ongoing process within state government.

The charge to the Governor's Council on Affirmative Action: to review the recruitment and classification procedures used in the Department of Employee Relations and identify barriers to the employment of protected class members, to recommend changes in the administration of the personnel system which would open the system to more protected classes while preserving the essential elements of the merit system.

Over the last 8 months the Council has looked at the practices within state government in order to provide recommendations on how Affirmative Action might be more effectively accomplished in state government.

The Council is satisfied that it has received enough information to draw the following conclusions:

1. There is little consistency in the way Affirmative Action plans and goals are developed and monitored. It was difficult to identify who within state government had final accountability for Affirmative Action. Equally unidentifiable were consequences for missed Affirmative Action opportunities, and unaccomplished goals.
2. There is an unevenness in the strength of the Affirmative Action officer position from agency to agency. Less than qualified personnel are often in a position to make decisions in an area in which they have received little, if any, training.
3. The Affirmative Action function seems to go begging for staff and managerial support to accomplish the objectives, recognition of the position demands, and the skills and perseverance required to accomplish an unpopular objective. Affirmative Action officers are asked to implement goals when they have not had an opportunity to suggest: (a) how the goals are developed, (b) if they make sense for the agency, and (c) if they alleviate an underrepresentation.

4. Agency heads have received no clear, specific expectations and direction from the Governor's office. Affirmative Action will happen when it receives as much attention and is talked about as much as the state budget. If there is no mention of Affirmative Action from the Governor to his key staff members, then it is assumed to be unimportant.
5. Community agencies and applicants are frustrated by the current job application system. The application process is difficult and it may take several months for an applicant to hear about a job.

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The report which follows indicates the issues the council has identified as the key areas of concern along with its recommendations. They are:

- Outreach and Recruitment
- Hiring & Terminations
- 700 Hour Program
- Staffing Affirmative Action Position
- Affirmative Action Plans and Goals
- Sanctions
- Legislation
- Affirmative Action Council
- Commitment to Affirmative Action
- Education

OUTREACH/RECRUITMENT/HIRING/TERMINATION/700 HOUR PROGRAM

Issues

- The general public has very little understanding of how the "recruitment process" in state government works.
- There appears to be very little personal contact with the general public, therefore, no effective recruitment policies and procedures can be entrenched in state government for minorities and women.
- There seems to be no system set up to help determine where applicants can be found.
- The union's role has a great deal to do with the state's ability to recruit and hire people, especially minorities and women.
- It takes an unreasonable length of time to hire someone for a state government job.
- The 700 Hour Trial Work program to permit disabled individuals to demonstrate ability to do a job when the regular testing process cannot be utilized, is not fully utilized in the interest of those applicants it was designed to assist.
- Only 60% of the state agencies have developed accommodation plans for the disabled.

Recommendations

1. Employee Relations should increase and improve its personal contact and communications with community agencies to inform and educate community groups about the hiring process in state government.
2. The Governor should become more visible in his support for Affirmative Action hiring. The Governor must hold agency heads accountable for community outreach.
3. State government should develop a system to track the sources of applicants in order to identify effective resources and problem areas.
4. The state should enter into negotiations with the unions to eliminate barriers to recruiting, hiring and promoting minorities and women.

5. The Department of Employee Relations should keep tests and lists open for protected class applicants in classifications where disparities exist.
6. The Department of Employee Relations should study the federal Veteran's Readjustment Appointment program for possible adaptation for use in the state's Affirmative Action program.
7. Rules for the 700 Hour Trial Work period should be developed by the Department of Employee Relations to include performance criteria which would assure that an individual moves out of this trial work period into regular employment as soon as he or she has demonstrated ability to do the job. The rules should also include grievance procedures and advisory assistance by the Council for the Handicapped when disputes in the 700 Hour program occur.
8. Reasonable accommodation plans should be developed and implemented for all state agencies. Reasonable accommodations should also be to applicants.
9. The department of Employee Relations should provide reasonable accommodations to applicants for state employment.

THE AFFIRMATIVE ACTION POSITION

Issues

- The effectiveness of the Affirmative Action Officer is limited by the reporting relationships in the departments.
- Uniform compliance with Affirmative Action programs cannot be achieved using the part-time designee system rather than full-time Affirmative Action Officers.
- There is inconsistency in the duties and levels of authority in the full-time Affirmative Action position.

Recommendations

1. A direct reporting relationship between Affirmative Action Officers and agency heads should be established.
2. The Affirmative Action part-time designee position should be eliminated. Smaller agencies should have a full-time Affirmative Action Officer combine resources so that full-time Affirmative Action professionals can be shared by several agencies.

3. A classification and compensation study should be implemented on the Affirmative Action Officer position.
4. Affirmative Action Officers should be provided with adequate support staff to fulfill their responsibilities in a timely and professional manner.

AFFIRMATIVE ACTION PLANS AND GOALS

Issues

- Affirmative Action plans lack consistency from agency to agency in their development, monitoring and implementation.
- Goals are set by the Equal Opportunity Division based on statistical data. These data do not always reflect existing disparities in departments and agencies.
- There is no Affirmative Action plan which combines all the agency plans into one state plan which is submitted to the Governor.

Recommendations

1. A consistent monitoring plan should be developed for all agencies to insure legal compliance and development of effective programs.
2. Affirmative Action Officers must participate in the development of the Affirmative Action plans and goals with input from management, line employees and the community at large.
3. Prior to submission, the yearly Affirmative Action plan should be reviewed in a meeting with the agency head, the Affirmative Action Officer and the Director of Equal Opportunity.
4. On a yearly basis, the Department of Employee Relations should submit a combined summary of agency plans to the Governor for his approval. This becomes the annual State of Minnesota's Affirmative Action plan.

SANCTIONS

Issues

- No sanctions exist for department heads or other managers for failure to comply with Affirmative Action plans.
- Public hearing testimony suggests that Affirmative Action plans have very little value unless there are consequences for non-compliance.
- Public hearing testimony suggests that financial sanctions would be most effective, although there is concern that overall department budget cuts could have a negative impact on the citizens served.

Recommendations

1. The Governor should propose legislation which would provide for meaningful salary reductions for department heads whose departments fail to comply with approved Affirmative Action plans. The reductions would be based on the recommendations of the Affirmative Action Council. (See Page 8.) Sanctions should be tied to factors such as the number of missed opportunities in both hiring and promotion.
2. Managers of state department divisions which are in non-compliance should be sanctioned. Such sanctions should include: a freeze on salary increases for all hiring authorities within that division who are responsible for any missed opportunities. The sanctions may also include a decrease in areas of the division's budget that do not provide, or affect, direct service to the public (e.g., out-of-state travel, office equipment purchase, etc.)

LEGISLATION

Issues

- The Executive and Legislative branches have a joint responsibility to ensure that the State of Minnesota's commitment to Affirmative Action is visible and demonstrable.

Recommendations

1. The Governor should issue an Executive Order requiring the inclusion of Affirmative Action as a criteria in the performance appraisal of every state employee with hiring authority. Failure to meet Affirmative Action goals due to non-compliance with Affirmative Action plans and/or missed opportunities which were under the employee's control, should be grounds for an unsatisfactory performance rating and denial of such employee's annual salary increase.
2. Legislation is required to provide for the hiring of more full-time Affirmative Action officers. Such legislation should establish a ratio to govern the number of state employees to be covered by each Affirmative Action Officer.
3. Legislation should be enacted which requires the State Director of Equal Employment Opportunity to report directly to the Governor's office.

DEVELOPMENT OF AFFIRMATIVE ACTION COUNCIL

Issues

- Lack of visible accountability for Affirmative Action in state government.
- The Affirmative Action structure is viewed both internally and externally is confusing.
- There is lack of staff resources to implement Affirmative Action programs.
- Follow-through and monitoring of Affirmative Action plans is lacking.

Recommendations

1. The Governor should establish by Executive Order an Affirmative Action Council.
 - This council should be clearly positioned as a decision-making body. Its charter: To aggressively implement an Affirmative Action program devoid of political influence. With a goal of productively affecting state government Affirmative Action program. The Council shall have the power to review, recommend, approve and inforce Affirmative Action programs within state government. The Council's plans must be submitted to the Governor for final approval.

- Make up of the Council: The chair should be appointed by the body. He or she should be the Chief Executive Officer from a local company viewed by the community as having an aggressive and successful Affirmative Action program.
- Council membership:
 - Lieutenant Governor
 - Commissioner of Employee Relations
 - Equal Opportunity Director
 - Director, Council of Black Minnesotans
 - Director, Spanish Speaking Affairs Council
 - Director, State Council for the Handicapped
 - Director, Council on the Economic Status of Women
 - Director, Inter-Tribal Affairs Council
 - Greater Minnesota representation
 - Interested local citizens -- through an application and screening process.
 - Legislators (2 from each House)
 - Representation from the Asian community
 - Veteran representation
- Size: Not to exceed 19 members.
- Term: 2 year staggered term for members at large and legislators.
- Reporting: The Chair reports to the Governor.

COMMITMENT

Issues

- Lack of visible commitment from the Governor and agency heads to Affirmative Action.

Recommendations

1. Affirmative Action issues should become a standing item on the Governor's cabinet agenda.
2. Affirmative Action goals should be reviewed as a part of the agency budgeting process.
3. Affirmative Action performance both positive and negative should be highlighted in the Performance Review process for agency heads, managers and supervisors.
4. On a yearly basis, the Governor should include in his State of the State message a report to the community on progress toward the state's Affirmative Action goals.

TRAINING

Issue

- There is no mandatory Affirmative Action training within state government.

Recommendations

1. Develop an Affirmative Action training module to be included in the existing supervisory course, Managing the Human Resource. The module should provide information on the supervisor's role and responsibility in Affirmative Action, an understanding of the state's commitment, as well as an overview of the legal ramifications of non-compliance.
2. Develop a course for all employees on cross-cultural awareness.
3. Develop an ongoing Affirmative Action campaign: identify opportunities to keep Affirmative Action issues and supervisory responsibility in the forefront, e.g.:
 - developing an Affirmative Action newsletter for supervisors which could be dispersed to community groups.
 - developing an Affirmative Action logo to be used on state stationery.
 - Promoting among agency heads, managers and supervisors the sharing of ideas and plans to make Affirmative Action happen. Encourage a dialogue with community agencies.

CONCLUSION

It is the Council's opinion that there are several issues that can be dealt with immediately. First, visible, clear commitment on the part of the Governor would have an immediate impact. It is important for the managers and supervisors to know the Governor is holding them responsible for implementing Affirmative Action. Developing and implementing a permanent Affirmative Action Council will also demonstrate commitment and support for a positive and aggressive change in the existing Affirmative Action philosophy.

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The purpose of these recommendations is to establish an Affirmative Action process in state government that works to encourage a productive and diverse workforce at all levels.

APPENDIX

GOVERNOR'S COUNCIL ON AFFIRMATIVE ACTION

Chair:

*Mayna Stancill
Director Affirmative Action Personnel Programs
St. Paul Companies

Members:

Barbara Andrus
Coordinator, Job Training Partnership Act.
Minority Women's Project
City of St. Paul

Clyde Bellecourt
Director Circle for Survival Consortium
Minneapolis

Senator Linda Berglin
Minnesota State Senate

Allene Burnette
Indian Affairs Intertribal Board
St. Paul

*Jose Cruz
Affirmative Action Officer/Manager
Human Relations
Metropolitan Waste Control Commission
St. Paul

*Carolyn Emerson
Handicapped Program Coordinator
Honeywell
Minneapolis

*Lou Fuller
Director CHART Sabathani
Minneapolis

*James Garrett
Employee Relations Supervisor
3M
St. Paul

*John Henderson
Manager Affirmative Action &
Integrated Planning
Honeywell
Plymouth

Chau Phung Huu
Employment Counselor, Fellowship of Republic
of Vietnam Armed Forces Servicemen in Minnesota
St. Paul

*Scott Rostron
Title V Coordinator
Department of Vocational Rehabilitation
State of Minnesota

Donna Sherlock
Executive Director
Chicanos/Latinos Unidos en Servicios
St. Paul

Representative Randy Staten
Minnesota House of Representatives

*Kate Wulf
Director Displaced Homemakers
Working Opportunities for Women
St. Paul

STAFF

Pat Herndon
Equal Opportunity Director
Department of Employee Relations

Statewide Affirmative Action Committee

*Linda St. Sauver
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*Nancy Petracca
Affirmative Action Officer
Department of Transportation

*Report Writers

DEPARTMENT EMPLOYEE RELATIONS - 3RD FLOOR
SPACE CENTER BUILDING

STATE OF MINNESOTA

Office Memorandum

TO: Governor's Council on Affirmative Action

DATE: 7/27/84

FROM: Nina Rothchild, Commissioner of Employee Relations
Marlene Johnson, Lieutenant Governor

PHONE: 296-8366

SUBJECT: REPORT AND RECOMMENDATIONS

Thank you for your report and recommendations. We greatly appreciate the time and effort you have put into examining the state's equal opportunity and affirmative action programs, and also appreciate the thought you have given to helping us make improvements.

The following is our response to the recommendations presented in the report and corresponds to the areas of concern listed on page 3 of your report.

Recruitment, Selection, Termination, and 700-Hour Program

The Equal Opportunity and Recruitment and Examination Divisions will expand efforts to survey community agencies and advocacy groups to assess their effectiveness in helping us recruit protected group members for state jobs. Organizations identified as being active in job placement will be put on a permanent mailing list to receive notifications of examinations. The Divisions will then develop a schedule of regular visits to improve and maintain personal contact with these groups. The mailing list will be periodically reviewed so that new or newly identified organizations may be added. Applicants who apply as a result of this outreach effort will be tracked through the examining and selection process in an attempt to identify any barriers to their employment by the State. Additionally, these two Divisions will develop and periodically conduct community informational sessions and job fairs in order to provide information about the process of securing employment with the State. We are also studying the possibility of conducting test-taking skills programs for protected group members. This program would be available both to new applicants and to state employees seeking promotional opportunities.

Civil service selection procedures are by their very nature lengthier than private sector processes, in part to ensure maximum opportunity for all groups to apply. Reductions in employee turnover and increases in applications in recent years only serve to exacerbate the problems of too many applicants and not enough openings. Currently, there are 216 examinations open on a continuous basis. The Department of Employee Relations will continue to explore the possibility of increasing the number of examinations open continuously and will make every effort to minimize the amount of time required to examine applicants and have them placed on eligible lists.

In order to facilitate the placement of Vietnam Era Veterans, the Department of Employee Relations will review the federal Veterans Readjustment Appointment Program to determine if this program or elements of it are applicable to our system and our Affirmative Action Program.

The Equal Opportunity Division is currently conducting audits of each major state agency. The results of these audits will be used to evaluate agencies on their goals and objectives, on their affirmative action efforts, to identify deficiencies in the goal setting process, and to assist in the development of new affirmative action plans. The results of these audits will be summarized and reported to the Governor and the Legislature.

Sanctions

While the Department of Employee Relations supports the concept of developing sanctions for failure to fulfill affirmative action obligations, state law prevents the Governor from recommending agency head pay on the basis of performance. M.S. 43A.18, Subd. 5 states that "In making recommendations (on agency head pay), the Governor shall consider only those criteria established in subdivision 8 and shall not take into account performance of individual incumbents." We plan, however, to amend the Manager's Plan to require that affirmative action performance be a factor in assessing the performance of all other managers for salary increase purposes.

Legislation

The Department of Employee Relations disagrees with removing Affirmative Action Programs from the department for two reasons. First, both the personnel function and the affirmative action function are concerned with the management of human resources. The personnel function directs its efforts toward general human resources management while the affirmative action function directs its efforts in exactly the same direction but specifically on behalf of protected group persons. Secondly, affirmative action in state service was originally placed in the Governor's Office and was separate from the general personnel function. This structure did not work well, and the program was transferred to the Department of Personnel. We believe that the affirmative action function is best served by promoting affirmative action as an integral part of the systems involved in its implementation. Unlike the chief executive in the private sector, a Governor does not manage day-to-day operations in state government, but delegates that responsibility to staff agencies. As the Employer for the State of Minnesota, the Commissioner of Employee Relations is the appropriate authority for equal employment opportunity.

Affirmative Action Council

We agree that an Affirmative Action Council could be useful and are considering various options for establishing such a council. The Lieutenant Governor and the Commissioner of the Department of Employee Relations will make a recommendation to the Governor.

Training

Current training efforts in the Department of Employee Relations include:

- 1) An affirmative action component in all required supervisory courses;
- 2) Sexual harassment training for all state employees;
- 3) Complaint investigation training for all affirmative action officers.

We agree that additional training and development should be provided for state employees, and will work with the Statewide Affirmative Action Committee and our Training Division to develop new course offerings.